

## Internal Revenue Service

Number: **200705005**

Release Date: 2/2/2007

Index Number: 9100.22-00, 1503.04-04

Department of the Treasury

Washington, DC 20224

[Third Party Communication:

Date of Communication: Month DD, YYYY]

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:INTL

PLR-120236-06

Date:

October 17, 2006

## LEGEND

Taxpayer =

Corp A =

Tax Year =

A

Tax Year =

B

Tax Year =

C

Country X =

Dear :

This replies to your representative's letter dated March 28, 2006, in which your representative requests on behalf of Taxpayer an extension of time under Treas. Reg. §301.9100-3 to file in Tax Year C the annual certifications described in §1.1503-2T(g)(2)(vi)(B) for dual consolidated losses incurred by Corp A in Tax Years A and B. The information submitted for consideration is substantially as set forth below.

The ruling contained in this letter is predicated upon facts and representations submitted by Taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for a ruling. Verification of the factual information, representations, and other data may be required as a part of the audit process.

For Tax Years A, B, and C, Taxpayer was the common parent of a U.S. consolidated group. Corp A was a wholly-owned indirect subsidiary of Taxpayer. Corp A was organized under the laws of Country X, and was treated as a corporation subject to income tax in Country X on its worldwide income. For U.S. income tax purposes, Corp A was a disregarded entity for Tax Years A, B, and C, and was considered a hybrid entity separate unit within the meaning of Treas. Reg. §1.1503-2(c)(4). Therefore, Corp A was a dual resident corporation within the meaning of §1.1503-2(c)(2), and the losses that it incurred in Tax Years A, B, and C were dual consolidated losses as defined in §1.1503-2(c)(5). Taxpayer included those losses in its consolidated U.S. income tax returns for Tax Years A, B, and C.

Taxpayer filed with its consolidated U.S. income tax return for Tax Year C the election and agreement described in Treas. Reg. §1.1503-2T(g)(2)(i) for that year. However, Taxpayer recently discovered that the return did not include the annual certifications in respect of the dual consolidated losses incurred by Corp A in Tax Years A and B, despite the fact that they were prepared by Taxpayer.

Taxpayer represents that it filed this application for relief before the Internal Revenue Service discovered the failure to file the annual certifications described in Treas. Reg. §1.1503-2T(g)(2)(vi)(B) in Tax Year C for the dual consolidated losses incurred by Corp A in Tax Years A and B. Treas. Reg. §301.9100-3(b)(1)(i).

Treas. Reg. §301.9100-1(c) provides that the Commissioner has discretion to grant a taxpayer a reasonable extension of time, under the rules set forth in §301.9100-3, to make a regulatory election under all subtitles of the Internal Revenue Code, except subtitles E, G, H, and I.

Treas. Reg. §301.9100-1(b) provides that an election includes an application for relief in respect of tax, and defines a regulatory election as an election whose due date is prescribed by a regulation, a revenue ruling, revenue procedure, notice, or announcement.

Treas. Reg. §301.9100-3(a) provides that requests for relief subject to this section will be granted when the taxpayer provides evidence (including affidavits described in §301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith within the meaning of §301.9100-3(b), subject to the conditions set forth in §301.9100-3(b)(3), and the grant of relief will not prejudice the interests of the government within the meaning of §301.9100-3(c).

In the present situation, the annual certification described in Treas. Reg. §1.1503-2T(g)(2)(vi)(B) is a regulatory election as defined in §301.9100-1(b). Therefore, the Commissioner has discretionary authority under §301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the standards for relief as set forth in §301.9100-3.

Based on the facts and representations submitted, we conclude that Taxpayer satisfies the standards for relief as set forth in Treas. Reg. §301.9100-3. Accordingly, Taxpayer is granted an extension of time of 60 days from the date of this ruling letter to file in Tax Year C the annual certifications described in §1.1503-2T(g)(2)(vi)(B) for dual consolidated losses incurred by Corp A in Tax Years A and B.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the annual certifications. Treas. Reg. §301.9100-1(a).

A copy of this ruling letter should be associated with the annual certifications.

This ruling is directed only to Taxpayer, who requested it. I.R.C. § 6110(k)(3) provides that it may not be used or cited as precedent.

No ruling has been requested, and none is expressed, as to the application of any other section of the Code or regulations to the facts presented.

Pursuant to a power of attorney on file in this office, a copy of this ruling letter is being furnished to your first listed authorized representative.

Sincerely,

Associate Chief Counsel (International)

By: /s/ Richard L. Chewning

Richard L. Chewning

Senior Counsel

Office of the Associate Chief Counsel (International)

Enclosures:

Copy for 6110 purposes

cc: